

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Dwayne M. Valerio

v.

Civil No. 15-cv-248-LM

William Wrenn et al.

REPORT AND RECOMMENDATION

Before the court is plaintiff Dwayne M. Valerio's motion to amend (Doc. No. 29) the complaint in this matter. Defendant Bonnie Johnson has objected (Doc. No. 34).

Plaintiff seeks leave to join five new defendants. Each of those defendants is a corrections officer who was on duty on first shift in the Reception and Diagnostic Unit ("R&D") of the New Hampshire State Prison on July 6, 2012. Plaintiff has alleged that on that date, an R&D corrections officer, whose name was unknown to plaintiff, subjected plaintiff to an illegal visual body cavity search. That unnamed officer has been identified as "John Doe #3" for the purposes of this lawsuit. Valerio claims that any of the five officers he seeks to add to this action as defendants could be "John Doe #3." Valerio does not assert any other claim against those five officers.

Since filing the instant motion to join five new defendants, Valerio has received photographs of all of the

officers who were on duty in R&D on July 6, 2012. In a separate Order issued this date, this court granted Valerio sixty days to identify John Doe #3 by name, using those photos. Accordingly, the pending motion to amend complaint (Doc. No. 29) should be denied, without prejudice to Valerio's ability to move to amend his complaint in the future to name John Doe #3.

Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). The fourteen-day period may be extended upon motion. Failure to file specific written objections to the Report and Recommendation within the specified time waives the right to appeal the district court's order. See Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016); Fed. R. Civ. P. 72(b)(2).



Andrea K. Johnstone
United States Magistrate Judge

February 14, 2017

cc: Dwayne M. Valerio
Seth Michael Zoracki, Esq.